

7.0 COMPLIANCE, CONSULTATION, AND COORDINATION

7.1 REGULATORY COMPLIANCE

7.1.1 Federal Laws, Regulations, and Executive Orders

Endangered Species Act of 1973, Public Law 93-205

The ESA protects threatened and endangered species (and their designated critical habitat), as listed by the Service, from unauthorized take and directs Federal agencies to ensure that their actions do not jeopardize the continued existence of such species. Section 7 of the ESA requires Federal agencies to consult with the Service to ensure that undertaking, funding, permitting, or authorizing an action is not likely to jeopardize the continued existence of listed species or destroy or adversely modify designated critical habitat, as defined under the law. The Service may authorize take of a listed species under section 10, which also provides for the preparation of habitat conservation plans. (Refer to section 1.3 for a discussion of past compliance with the ESA for certain covered activities.)

The Conservation Plan is intended to provide long-term ESA compliance for Federal and non-Federal interests in the LCR planning area for a period of 50 years, beginning in the year 2005. As part of the proposed action, the Service would issue a section 10(a)(1)(B) permit based on a determination that the Federal action of issuing the permit and the implementation of the non-Federal covered activities would not appreciably reduce the likelihood of the survival and recovery of the covered species in the wild.

Fish and Wildlife Coordination Act, 16 U.S.C. 661-666

The Fish and Wildlife Coordination Act requires that whenever any body of water is proposed or authorized to be impounded, diverted, or otherwise controlled or modified, the lead Federal agency must consult with the Service, the state agency responsible for fish and wildlife management and, for projects affecting marine fisheries, the National Marine Fisheries Service. Section 662(b) of the Act requires the lead Federal agency to consider the Service and other agencies' recommendations. The recommendations may address wildlife conservation and development, damage to wildlife attributable to the proposed action, and measures proposed to mitigate or compensate for these damages.

Due the programmatic nature of this EIS, a Fish and Wildlife Coordination Act Report is not currently being requested for the Conservation Plan, although the LCR MSCP participants coordinated with the Service concerning the development of the Conservation Plan and potential impacts from its implementation. A determination will be made if individual conservation activities trigger the requirements of the Fish and Wildlife Coordination Act for consultation, and the need for reports for those individual conservation activities will be reviewed with the Service and the state wildlife agencies on a case-by-case basis.

Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2901)

The Fish and Wildlife Conservation Act, commonly known as the Nongame Act, authorizes financial and technical assistance to the states for the development, revision, and implementation of conservation plans and programs for nongame fish and wildlife. The Act also serves to encourage Federal agencies to utilize their statutory and administrative authority to conserve and to promote the conservation of nongame fish and wildlife and their habitats. Amendments adopted in 1988 and 1989 also direct the Secretary of the Interior to undertake certain activities to research and conserve migratory nongame birds.

The Conservation Plan is consistent with this Act because the conservation actions would promote the conservation of nongame fish and wildlife species and their habitats. Moreover, the establishment of land cover types that provide habitat for, and the conservation of, nongame migratory bird species is a central component of the Conservation Plan.

National Wildlife Refuge System Administration Act of 1966 (42 U.S.C. 668dd), as amended by the National Wildlife Refuge System Improvement Act of 1997 (P.L. 105-57)

This Act provides for the administration and management of the national wildlife refuge system, including wildlife refuges, areas for the protection and conservation of fish and wildlife threatened with extinction, wildlife ranges, game ranges, wildlife management areas and waterfowl production areas.

The Conservation Plan would be consistent with this Act because the conservation actions would include the enhancement or maintenance of habitat areas potentially located within existing refuges.

Migratory Bird Treaty Act 1918 (16 U.S.C. 703)

The Migratory Bird Treaty Act protects migratory birds by limiting the hunting, capturing, selling, purchasing, transporting, importing, exporting, killing, or possession of these birds or their nests or eggs. The specific migratory birds covered are identified in separate agreements between the United States and Great Britain, Mexico, and Japan.

The Conservation Plan would be consistent with the Migratory Bird Treaty Act. The conservation actions would benefit migratory birds by establishing protected areas that provide habitat for bird species protected by the Act. Reclamation will consult with the Service regarding impacts to migratory birds as required by Executive Order (EO) 13186 (discussed below). The section 10(a)(1)(B) permit issued by the Service for ESA-listed birds would function as the permit required by this Act.

Migratory Bird Conservation Act of 1929 (16 U.S.C. 715)

The Migratory Bird Conservation Act, which was passed by Congress in 1929, protects migratory birds by creating the Migratory Bird Conservation Commission. The Commission's purpose is to consider and approve the purchase, rental, or other acquisition of any areas of land or water that may be recommended by the Secretary of the Interior for the purpose of establishing sanctuaries for migratory birds.

1 No action is required under this Act. However, the Conservation Plan would be consistent with
2 the goals of the Act by providing protected habitat for migratory birds.

3 ***Bald Eagle Protection Act of 1940 (16 U.S.C. 4901-4918)***

4 The Bald Eagle Protection Act imposes criminal and civil penalties on anyone in the United
5 States or within its jurisdiction who, unless excepted, takes, possesses, sells, purchases, barter,
6 offers to sell or purchase or barter, transports, exports or imports at any time or in any manner a
7 bald or golden eagle, alive or dead; or any part, nest or egg of these eagles; or violates any
8 permit or regulations issued under the Act. If compatible with the preservation of bald and
9 golden eagles, the Secretary of the Interior may issue regulations authorizing the taking,
10 possession and transportation of these eagles for scientific or exhibition purposes, for religious
11 purposes of Indian Tribes or for the protection of wildlife, agricultural or other interests.

12 The Conservation Plan would be consistent with the Bald Eagle Protection Act because the
13 conservation actions would not result in adverse impacts to bald eagles.

14 ***Section 176, Clean Air Act (42 U.S.C. 7506)***

15 The purpose of the CAA is to protect the nation's air quality by regulating emissions of air
16 pollutants. The CAA is applicable to permits and planning procedures related to activities
17 onshore and within the territorial sea. Section 176 of the CAA prohibits Federal agencies from
18 engaging in any activity that does not conform to the most recent EPA-approved SIP's purpose
19 of attaining and maintaining the NAAQS. This means that Federally supported or funded
20 activities will not (1) cause or contribute to any new violation of any air quality standard; (2)
21 increase the frequency or severity of any existing violation of any standard; (3) delay the timely
22 attainment of any standard or any required interim emission reductions or other milestones in
23 any area.

24 The proposed action would result in potential short-term, unavoidable impacts air quality
25 impacts. The development of the largest projects would produce fugitive dust emissions that
26 could exceed an ambient 24-hour PM₁₀ standard; emissions from the largest prescribed burns
27 during terrestrial vegetation establishment or maintenance activities also could produce
28 emissions that would contribute to an exceedance of an ambient 24-hour PM₁₀ standard; and air
29 emissions from habitat establishment activities and facility construction could exceed the
30 MDAQMD daily NO_x or PM₁₀ emission significance thresholds. Mitigation Measures AQ-1 and
31 AQ-2 have been included in this EIS/EIR and would involve implementation of standard
32 operating practices to minimize PM₁₀ emissions during construction and the implementation of
33 a smoke management plan, respectively. These measures would reduce impacts to air quality,
34 but impacts could remain significant, although they would last only for the duration of the
35 construction activity. As discussed in section 3.3, Air Quality, the lead agencies would ensure
36 that proposed construction, maintenance, and operations activities would comply with all
37 applicable air regulations, which would in turn ensure that the proposed action would not
38 conflict with or obstruct implementation of an applicable air quality plan. Therefore, the
39 Conservation Plan would be consistent with this Act.

General Conformity Rule, 40 CFR, Part 51, subpart W

This rule requires that Federal projects or projects receiving Federal funding conform to SIPs developed for the purpose of reaching attainment of NAAQS. The General Conformity Rule allows a Federal agency to defer a conformity analysis for a programmatic action such as the Conservation Plan until project-specific information is available upon which to base the analysis (EPA 1993). As a result, the conformity analysis for the proposed action would occur at a future date in association with project-specific proposals.

Executive Order 13352, Facilitation of Cooperative Conservation

EO 13352 was issued on August 26, 2004. The purpose of this order is to ensure that the Departments of Interior, Agriculture, Commerce, and Defense and the EPA implement laws relating to the environment and natural resources in a manner that promotes cooperative conservation, with an emphasis on appropriate inclusion of local participation in Federal decisionmaking, in accordance with their respective agency missions, policies, and regulations. Cooperative conservation is defined as “actions that relate to use, enhancement, and enjoyment of natural resources, protection of the environment, or both, and that involve collaborative activity among Federal, State, local, and tribal governments, private for-profit and nonprofit institutions, other nongovernmental entities and individuals.” The above-referenced agencies are directed to carry out their efforts in a manner that:

- facilitates cooperative conservation;
- takes appropriate account of and respects the interests of persons with ownership or other legally recognized interests in land and other natural resources;
- properly accommodates local participation in Federal decisionmaking; and
- provides that the programs, projects, and activities are consistent with protecting public health and safety.

The proposed action is consistent with the principles of cooperative conservation. The LCR MSCP is intended to be a coordinated program and has been developed by a partnership of state, Federal, and other public and private stakeholders in Arizona, California, and Nevada with interests in managing the water and related resources of the LCR. The members of this partnership also would be responsible for implementing and funding the proposed Conservation Plan. The LCR MSCP participants have taken appropriate account of and respect the interests of persons with ownership or other legally recognized interests in land and other natural resources; all land would be acquired on a voluntary basis, and siting criteria and mitigation measures identified in this EIS/EIR would be sufficient to reduce or avoid potential adverse impacts of the proposed action (with the exception of potential short-term air quality impacts). As discussed in section 3.8 of this EIS/EIR, the LCR MSCP activities would be implemented in a manner that is consistent with protecting public health and safety.

Executive Order 11988, Floodplain Management

EO 11988 states that each [Federal] agency shall avoid development in floodplain areas to the extent practicable, in order to reduce the risk of flood loss, to minimize the impact of floods on

1 human safety, health, and welfare, and to restore and preserve the natural and beneficial values
2 served by floodplains. Federal agencies are directed to determine whether a proposed action
3 will occur in a floodplain and, if so, to consider alternatives to avoid adverse effects and
4 incompatible development in the floodplain. If development in a floodplain is deemed
5 necessary, the Federal agency must prepare and circulate a notice explaining why the action is
6 proposed for the floodplain area. Agencies are to provide opportunity for early public review
7 of any proposed actions in floodplains.

8 The conservation actions would be consistent with the EO because they would not increase the
9 risk of flood loss; or affect the impact of floods on human safety, health, and welfare. It would,
10 however, preserve the natural and beneficial values served by floodplains by establishing
11 native habitat. Development in the floodplain is necessary in order to adequately mitigate the
12 impacts of the covered activities, which would affect sensitive species that inhabit the historic
13 floodplain of the LCR.

14 *Executive Order 11990, Protection of Wetlands*

15 EO 11990 states that each [Federal] agency shall provide leadership and take action to minimize
16 the destruction, loss, or degradation of wetlands, and to preserve and enhance the natural and
17 beneficial values of wetlands in carrying out the agency's responsibilities. The EO does not
18 apply to Federal agencies' issuance of permits, licenses, or allocations to private parties for
19 activities involving wetlands on non-Federal property. Federal agencies are to provide
20 opportunity for early public review of any proposed plans or proposals for new construction in
21 wetlands.

22 The Conservation Plan includes some actions likely to involve dredging, excavation, or
23 placement of structures in Waters of the U.S., including wetlands. Such actions would require
24 permits under section 404 of the CWA and/or section 10 of the Rivers and Harbors Act. The
25 implementing parties would consult with the Corps to ensure that permitting requirements are
26 met, including due consideration of alternative locations and methods that could accomplish
27 the same objectives. The conservation actions would utilize locations and methods that
28 preserve and enhance the natural and beneficial values of those wetlands. Moreover, the
29 Conservation Plan would result in the establishment of 512 acres of marsh. The Conservation
30 Plan would not conflict with EO 11990 and includes measures to preserve and enhance the
31 natural and beneficial values of wetlands, as directed.

32 *Executive Order 12898, Federal Actions to Address Environmental Justice in Minority* 33 *Populations and Low-Income Populations*

34 This EO mandates that each Federal agency shall make achieving environmental justice part of
35 its mission by identifying and addressing disproportionately high and adverse human health or
36 environmental effects of its programs, policies, and activities on minority populations and low-
37 income populations.

38 Section 3.7, Environmental Justice, identifies environmental justice impacts associated with
39 short-term air quality emissions during construction, noise from construction activities and
40 operations, and the loss of agricultural jobs. The implementation of Mitigation Measures AQ-1
41 and AQ-2 would reduce potential air quality impacts, but they could remain substantial and

adverse for the duration of individual construction projects. The implementation of Mitigation Measures NOI-1 and NOI-2 would effectively reduce noise impacts to low income and minority populations. The implementation of Mitigation Measure EJ-1 would effectively reduce the impact associated with the loss of agricultural jobs.

Executive Order 12962, Recreational Fisheries

EO 12962 states that each [Federal] agency shall, and in cooperation with states and tribes, improve the quantity, function, sustainable productivity, and distribution of the United States' aquatic resources for increased recreational fishing opportunities.

The Conservation Plan would not adversely impact recreational fisheries. Therefore, the conservation actions would be consistent with EO 12962.

Executive Order 13186, Responsibilities of Federal Agencies to Protect Migratory Birds

This EO is primarily intended to assist Federal agencies in complying with the Migratory Bird Treaty Act and to reduce the risk to Federal agencies associated with unintentional take of migratory birds. It encourages agencies to carry out certain actions, as appropriate and practicable, to promote the conservation of migratory birds, such as restoring and enhancing migratory bird habitat; designing migratory bird habitat conservation measures and practices into agency plans; evaluating impacts of proposed Federal actions upon migratory birds in conjunction with complying with NEPA; and minimizing potential take of migratory birds in cooperation with the Service. Implementation of the Conservation Plan meets the intent of the EO.

Clean Water Act (33 U.S.C. 1341, 1342, 1344)

Section 404 of the CWA identifies conditions under which a permit is required for construction projects that result in the discharge of fill or dredged materials into Waters of the U.S. Construction activities associated with implementation of the proposed action may require a permit under section 404, depending on the location and nature of the construction.

The Conservation Plan includes some actions likely to involve dredging, excavation, or placement of structures in Waters of the U.S., including wetlands. Such actions would require permits under section 404 of the CWA. The implementing parties would consult with the Corps to ensure that permitting requirements are met, including due consideration [as required under section 404(b)(1)] of alternative locations and methods that could accomplish the same objectives. The conservation actions would utilize locations and methods that preserve and enhance the natural and beneficial values of those wetlands. The Conservation Plan would comply with the provisions of the CWA.

Section 10, Rivers and Harbor Act of 1899, (33 U.S.C. 403)

Section 10 of the Rivers and Harbors Act prohibits the obstruction or alteration of navigable waters of the United States without a permit from the Corps. Navigable waters are defined in 33 C.F.R. Part 329 as those water that are subject to the ebb and flow of the tide and/or have been used in the past, or may be used in the future to transport interstate or foreign commerce.

Hence, section 10 (and Corps) jurisdiction extends to the historic limits of navigability, including historic tidelands that have been diked and drained. This Act, in conjunction with the Fish and Wildlife Coordination Act (16 U.S.C. 661-666) and NEPA of 1969 (42 U.S.C. 4331-4347), permits the Corps to refuse on conservation grounds to grant a permit to dredge or fill in navigable waters.

The Conservation Plan includes some actions likely to involve dredging, excavation, or placement of structures in Waters of the U.S., including wetlands. Such actions would require permits under section 404 of the CWA and/or section 10 of the Rivers and Harbors Act. The implementing parties would consult with the Corps to ensure that permitting requirements are met. This would include due consideration of alternative locations and methods that could accomplish the same objectives. The conservation actions would utilize locations and methods that preserve and enhance the natural and beneficial values of those wetlands. The Conservation Plan would comply with the Act.

National Historic Preservation Act (16 U.S.C. 470)

Federally funded undertakings that have the potential to impact historic properties are subject to section 106 of the NHPA. Under this Act, Federal agencies are responsible for the identification, management, and nomination to the NRHP of cultural resources that would be impacted by Federal actions. Compliance with this Act is documented in section 3.5. Each individual project would have separate NEPA and NHPA compliance as needed before it is implemented.

American Indian Religious Freedom Act (42 U.S.C. 1996)

The American Indian Religious Freedom Act establishes as United States policy the protection and preservation for American Indians of their inherent right to freely believe, express, and practice their traditional religions, which includes, but is not limited to, access to sites, use and possession of sacred objects, and the freedom to worship through ceremonial and traditional rites. Federal agencies are required to make a good faith effort to learn about Indian religious practices, consult with Indian leaders and religious practitioners, and consider any adverse impacts on Indian religious practices during decisionmaking.

Implementation of the proposed action would not conflict with these requirements. Any use of tribal lands for conservation area establishment would be based on the voluntary consent of the tribe.

Native American Graves Protection and Repatriation Act (24 U.S.C. 3001)

NAGPRA assigns ownership to Native Americans of human burials and associated grave goods, which are excavated or discovered on Federal or tribal lands. It requires Federally sponsored museums to conduct inventories of their collections, and requires a 30-day delay in project work when human remains are discovered on Federal lands. If human remains are discovered on Federal lands during the implementation of the Conservation Plan, a 30-day delay in project work activities is required.

Implementation of the mitigation measures identified in section 3.5 of this EIS/EIR would ensure compliance with this Act.

Executive Order 13007 Regarding Indian Sacred Sites

Pursuant to EO 13007, Federal agencies must consider the effects of their actions on the physical integrity of sacred sites, and access to and ceremonial use of such sites by Indian religious practitioners. EO 13007 defines a “sacred site” as follows:

...any specific, discrete, narrowly delineated location on Federal land that is identified by an Indian tribe, or Indian individual determined to be an appropriately authoritative representative of an Indian religion, as sacred by virtue of its established religious significance to, or ceremonial use by, an Indian religion; provided that the tribe or appropriately authoritative representative of an Indian religion has informed the agency of the existence of such a site.

EO 13007 directs Federal agencies “...to the extent practicable, permitted by law, and not clearly inconsistent with essential agency functions,” to accommodate access to and use of such sites by Native American traditional religious practitioners, and to avoid affecting their physical integrity. As described in section 3.5, in 2000 the Federal government initiated government-to-government consultation with tribes on whose reservations conservation efforts might be implemented. All tribal representatives declined to provide information on sacred sites and Traditional Cultural Properties until more information is available regarding the locations and potential impacts of specific conservation projects. The Federal government will continue the consultation process in compliance with EO 13007.

Antiquities Act (16 U.S.C. 431)

The Antiquities Act of 1906 provides for the protection of historic and prehistoric remains or any object of antiquity on Federal lands; establishes criminal penalties for unauthorized destruction or appropriation of antiquities; and authorizes scientific investigation of antiquities on Federal land, subject to permit and regulations.

The proposed action would be in compliance with this Act.

Archaeological Resources Protection Act (16 U.S.C. 470)

The Archaeological Resources Policy Act of 1979 provides for the protection of archaeological resources on public and Indian lands. Protection of archaeological resources, under the guidelines of this Act, includes consideration of excavation and removal of resources, enforcement of the Act, and confidentiality of information concerning the nature and location of archaeological resources. It also provides substantial criminal and civil penalties for those who violate the terms of the Act. The proposed action would be in compliance with this Act.

Farmland Protection Policy Act (7 U.S.C. 4201)

This Act is the Federal statute that provides the basis for the policy of avoiding impacts from Federal programs. The Act does not prohibit Federal agencies from undertaking actions that convert farmland to nonagricultural use, but only requires that Federal agencies “identify and take into account the adverse effects of Federal programs on the preservation of farmland; consider alternative actions, as appropriate, that could lessen such adverse effects; and assure

1 that such Federal programs, to the extent practicable, are compatible with State (and local)
2 programs and policies to protect farmland” (7 U.S.C. section 4202[b]).

3 The analysis in section 3.2 of this EIS/EIR identifies and takes into account the potential effects
4 of the Conservation Plan on farmland in the whole planning area, considers alternative actions
5 that could lessen those effects, and also assures that the Conservation Plan is compatible with
6 state and local programs “to the extent practicable.” This analysis meets the requirements of the
7 Farmland Protection Policy Act on a programmatic basis.

8 ***Pollution Prevention Act of 1990 (42 U.S.C. 13101)***

9 The Pollution Prevention Act of 1990 was enacted to focus industry, government, and the public
10 on source reduction (pollution prevention) rather than upon treatment and disposal. The
11 national policy of the United States is that (1) pollution should be prevented or reduced at the
12 source, whenever feasible; (2) pollution that cannot be prevented should be recycled in an
13 environmentally safe manner, whenever feasible; (3) pollution that cannot be prevented or
14 recycled should be treated in an environmentally safe manner, whenever feasible; and (4)
15 disposal or other release into the environment should be employed only as a last resort and
16 should be conducted in an environmentally safe manner.

17 The Conservation Plan would contribute only minor amounts of pollution, primarily during the
18 construction phase and during maintenance activities. Moreover, only minimal amounts of
19 solid waste requiring disposal would be generated during construction and operations and
20 would be disposed of in an environmentally safe manner. The Conservation Plan would be
21 consistent with this Act.

22 **7.1.2 State of Arizona Laws and Regulations**

23 ***House Bill 2426***

24 The U.S. EPA issued regulations in 1990 authorizing the creation of a NPDES permitting system
25 for stormwater discharges. In Arizona, House Bill 2426, which became effective on Aug. 9,
26 2001, created the Arizona Pollutant Discharge Elimination System (AZPDES) Program. Under
27 the AZPDES Permit Program, all facilities that discharge pollutants from any point source,
28 including stormwater runoff, into Waters of the U.S. (navigable waters) are required to get an
29 AZPDES permit.

30 Permits would be required as appropriate. The Conservation Plan would be consistent with
31 this regulation.

32 ***Senate Bill 1525 (2001) Chapter 23: Military Airports; Preservation***

33 Senate Bill 1525 precludes development or improvements potentially impairing visibility or
34 otherwise interfering with operational aircraft. Water areas, sanitary landfills, or maintenance
35 of feeding stations attractive to birds and waterfowl are impermissible in clear zones, accident
36 potential zones, and high noise zones.

The proposed action would establish only a small amount of aquatic land cover types in relation to that which already exists and would not appreciably increase the risk of bird-airstrikes. In addition, conservation areas would be developed in compliance with FAA guidelines. Thus, the proposed action would comply with this law.

Protection of Cultural Resources

Chapter 4.2 of the Arizona Revised Statutes addresses historic preservation issues. While a specific historic preservation compliance process is not identified, the preamble to Article 1 states:

- B. It is the intent of the legislature that this state, in cooperation with the political subdivisions of this state, Federal agencies, Indian tribes, and other persons....
 - 2. Provide leadership in the identification and preservation of the prehistoric and historic resources of this state.
 - 3. Administer state owned, administered or controlled prehistoric and historic resources in a spirit of stewardship for the inspiration and benefit of present and future generations.

Chapter 4.2, Article 1, goes on to assign responsibility for preservation of historic properties owned and controlled by the agency, to the chief administrator of each agency (Section 41-861). All state agencies are directed to cooperate with the state historic preservation officer in developing a program to locate, inventory, and nominate to the Arizona register of historic places all properties under the agency's ownership or control that appear to meet the criteria for inclusion on the register (Section 41-862). In the event a direct action or one assisted by a state agency will result in substantial alteration to or destruction of an historic property, state agencies are directed to initiate measures to document the property to the standards established by the state historic preservation officer (Section 41-863). And lastly, Section 41-864 accords the state historic preservation officer 30 days:

...to review and comment on any plans of a state agency which involve property which is included on or may qualify for inclusion on the Arizona register of historic places, including any construction project, sale, lease, or acquisition of historic properties, to ensure that the prehistorical, historical, architectural or culturally significant values will be preserved or enhanced.

The LCR MSCP participants would comply with this statute while implementing the Conservation Plan.

7.1.3 State of California Laws and Regulations

California Endangered Species Act (Fish and Game Code secs. 2050-2097)

CESA provides for the recognition and protection of rare, threatened, and endangered species of plants and animals. The Act prohibits the taking of listed species without authorization from the CDFG. CDFG may authorize the taking of a listed species through a Memorandum of Understanding that establishes the extent of take permitted by CDFG and sets forth the

1 required mitigation. The California participants in the LCR MSCP will comply with CESA to
2 the extent it applies to their covered activities.

3 *State laws governing treatment of Native American remains (P.R.C. secs. 5097.94, 5097.98,*
4 *5097.99; Health and Safety Code sec. 7050.5)*

5 These laws protect Native American religion, places of social significance, and cemeteries or
6 places of worship, etc., from interference, construction, or damage and prohibits the possession
7 or take of Native American grave-related artifacts or human remains taken from graves or
8 cairns.

9 Implementation of the mitigation measures identified in section 3.5 of this EIS/EIR would
10 ensure compliance with these laws.

11 *California Land Conservation Act (Williamson Act) Govt. Code sec. 51200*

12 The California Land Conservation Act of 1965, commonly referred to as the Williamson Act,
13 established the state's primary program for the retention of private land in agriculture and open
14 space use. The Williamson Act is a voluntary, locally administered program that offers reduced
15 property taxes on lands that have enforceable restrictions on their use via contracts between
16 individual land owners and local governments.

17 Lands subject to Williamson Act contracts would not be acquired for the Conservation Plan
18 unless the local agency agreed that the contract terms allow the establishment and maintenance
19 of conservation areas as a compatible use, and that there is no significant adverse impact from
20 the use of non-contract lands within an agricultural preserve because fish and wildlife
21 enhancement and preservation is a compatible use of such lands. The proposed action would
22 comply with this Act.

23 *Porter-Cologne Water Quality Control Act (Division 7, California Water Code)*

24 The Porter-Cologne Water Quality Control Act is the primary state regulation that addresses
25 water quality. The requirements of the Act are implemented by the SWRCB at the state level
26 and, at the local level, by the RWQCBs. Under the direction of the SWRCB, the RWQCBs carry
27 out planning, permitting, and enforcement activities related to water quality in California. The
28 regional boards prepare water quality plans (called basin plans) for their regions. Basin plans
29 identify the beneficial uses of water that should be protected, establish water quality objectives
30 (limits or levels of water constituents based on both state and Federal laws), and define an
31 implementation program to meet water quality objectives. The area that would be affected by
32 the implementation of the project lies within the boundaries of the Colorado River Basin
33 (Region 7) RWQCB. The proposed action would potentially have only minor, temporary
34 impacts to water quality and would not conflict with this Basin Plan.

7.1.4 State of Nevada Laws and Regulations

Nevada Water Pollution Control Law (N.R.S. 445A.300 to 445A.730)

The intent of the Nevada Water Pollution Control Law is to (1) maintain the quality of the waters of the state consistent with the public health and enjoyment, the propagation and protection of terrestrial and aquatic life, the operation of existing industries, the pursuit of agriculture, and the economic development of the state; and (2) to encourage and promote the use of methods of waste collection and pollution control for all significant sources of water pollution (including point and diffuse [non-point] sources). Except as authorized by a permit issued by the department pursuant to the provisions of N.R.S. 445A.300 to 445A.730 inclusive, and regulations adopted by the commission, it is unlawful for any person to discharge from any point source any pollutant into any waters of the state. Discharge permits would be obtained by the LCR MSCP as required.

Protection of Cultural Resources

N.R.S. Chapter 383 addresses historic preservation and archaeology. N.R.S. 383.021 provided for the establishment of the Office of Historic Preservation (OHP). A specific historic preservation compliance process is not identified. However, N.R.S. 383.121 states:

1. All departments, commissions, boards, and other agencies of the state and its political subdivisions shall cooperate with the office [i.e., OHP] in order to salvage or preserve historic, prehistoric, or paleoenvironmental evidence located on property owned or controlled by the United States, the State of Nevada, or its political subdivisions.
2. When any agency of the state or its political subdivisions is preparing or has contracted to excavate or perform work of any kind on property owned or controlled by the United States, the State of Nevada, or its political subdivisions which may endanger historic, prehistoric or paleoenvironmental evidence found on the property, or when any artifact, site or other historic or prehistoric evidence is discovered during the course of such excavation or work, the agency or the contractor hired by the agency shall notify the office and cooperate with the office to the fullest extent practicable, within the appropriations available to the agency or political subdivision for that purpose, to preserve or permit study of such evidence before its destruction, displacement, or removal.

The LCR MSCP participants would comply with this statute while implementing the Conservation Plan.

7.1.5 Tribal Laws and Regulations

If the Conservation Plan were implemented on tribal lands, all appropriate regulations and standards would be followed.

7.2 CONSULTATION AND COORDINATION

7.2.1 Public Involvement

Reclamation, the Service, and Metropolitan, with input from other LCR MSCP participants, have prepared a PIP in support of this EIS/EIR. The PIP is a dynamic document that has continued to evolve as affected individuals, agencies, organizations, and governmental entities have been consulted and included in the environmental review process. It has been reviewed periodically to ensure that its goals have been met and that the needs of the public and affected agencies have been addressed.

The PIP has been prepared in accordance with Reclamation's guidelines for developing public involvement plans (USBR Public Involvement Manual [1980] and USBR Draft NEPA Handbook, 2000a). The activities carried out in accordance with the PIP are consistent with and satisfy the public involvement requirements and policies of NEPA and the Federal CEQ Guidelines (40 C.F.R. 1500 et. seq.), and CEQA and the California State CEQA Guidelines (14 C.C.R. 15000 et. seq.). These activities are also consistent with Executive Order 11988, Floodplain Management, which requires public review of plans or proposals in floodplains.

To date, a number of different outreach activities have been carried out, including compiling and using mailing lists for distribution of project information; issuing newsletters and press releases; developing a website containing information about the LCR MSCP; publishing official notices; and conducting public meetings and hearings. A summary of these activities is presented below; additional information on outreach activities is available in the PIP.

An LCR MSCP mailing list has been developed that identifies interested individuals, local media, community and interest groups, cities and counties, environmental organizations, and cooperating, responsible, and trustee agencies, and other affected agencies. As new, interested parties have been identified, they have been added to the mailing list, which will be kept current during the course of the process. Anyone requesting information and/or notice regarding the LCR MSCP or the environmental review process will be added to the mailing list. Parties with written requests to be removed from the mailing list will be deleted from it. Copies of relevant documents, such as the NOI/NOP for the EIS/EIR and the EIS/EIR, will be maintained at Reclamation's office in Boulder City, Nevada; the Service's office in Phoenix, Arizona; and MWD's office in Los Angeles, California. Copies of the EIS/EIR have been provided to local libraries in Yuma and Phoenix, Arizona; Boulder City, Henderson, Laughlin, and Las Vegas, Nevada; and Blythe and Ontario, California.

The media and public have been kept informed about key project milestones, such as the issuance of draft documents, through periodic newsletters. Newsletters are intended to explain technical information or publicize meetings or other key activities.

Information repositories have been established at the offices of Reclamation, the Service, and Metropolitan and contain materials accessible to the public, including newsletters, reports, and meeting notices. Meeting notices and other important documents have been posted to the website (www.lcrmscp.org), which has been established to make information about the EIS/EIR process available to a wider audience. The website includes a description of the LCR MSCP, current participants, files available to download, meeting schedules, past meeting notes, news

1 and interest items, and links to other sites. Reclamation also maintains LCR MSCP information
2 and related documents at www.lc.usbr.gov. This website includes the entire PIP, notices, public
3 scoping summaries and other information intended to help keep the public informed about the
4 LCR MSCP. Each website has a link to the other.

5 Public notices of EIS/EIR preparation and public hearings to obtain input into the
6 environmental review process are described in section 1.5, Scoping and Public Involvement.
7 These notices are included in Appendix B, and scoping summary reports are included in
8 Appendix C.

9 A Notice of Availability (NOA) and a Notice of Completion (NOC) were prepared as a
10 combined notice and distributed to the parties on the mailing list. These documents published
11 the fact that the Draft EIS/EIR was completed and available for public review and comment.
12 Copies of the notices were sent to all parties on the LCR MSCP mailing list. The NOA/NOC
13 also was sent to cooperating, responsible, and trustee agencies, published in the Federal
14 Register, published in local newspapers in the affected areas, and posted on the website. The
15 NOA/NOC was filed with the California Office of Planning and Research, as required by
16 CEQA. There was a 60-day review period for the public and agencies to review the Draft
17 EIS/EIR and provide comments. The review period formally ended on August 18, 2004;
18 however, comments received within a reasonable timeframe after that date have been
19 responded to in the Final EIS/EIR. A news release also announced the availability of the Draft
20 EIS/EIR.

21 During the 60-day review period, public hearings were conducted in Phoenix, Arizona; Blythe,
22 California; and Henderson, Nevada in order to receive public comments on the Draft EIS/EIR,
23 Draft HCP, Draft BA, and appendices to these documents. These hearings were held in the
24 evening to facilitate participation by members of the public, and meetings were held in urban
25 and rural communities to obtain input from the varied populations that could be affected by the
26 LCR MSCP. Copies of these documents were sent out approximately 30 days prior to the public
27 hearings, which were held on July 20-22, 2004. Notices of the hearings were published in the
28 local newspapers and posted on the LCR MSCP website. Informational handouts were
29 available that included the LCR MSCP Fact Sheet, map, Summary of Alternatives, and the
30 Federal Register notice. Public comment forms were available at the meetings. No public
31 comment forms were submitted at the meetings, but written comments were received later.

32 A summary of the complete comments and responses has been posted on the LCR MSCP
33 website. The Final EIS/EIR will be published, distributed, made available in local libraries, and
34 at the offices of Reclamation, the Service, and state agencies.

35 The Federal lead agencies will review the Final EIS/EIR and prepare a Record of Decision
36 (ROD). If comments are received on the Final EIS/EIR, they will address significant comments
37 in the ROD. As the lead agency under CEQA, Metropolitan will independently evaluate and, if
38 appropriate, certify this EIR and make CEQA findings.

39 **7.2.2 Federal, State, and Local Agency Consultation and Coordination**

40 All Federal, state, and local agencies with interests in managing the water and related resources
41 of the LCR were contacted early in the development of the Conservation Plan and asked to

1 participate in the planning process. Consequently, the LCR MSCP is a partnership of many
2 agencies that have been actively involved in the development of the Conservation Plan and
3 accompanying environmental and regulatory compliance documents. Other agencies, such as
4 the Corps, USIBWC, and EPA, were invited to meetings to obtain their input to these
5 documents. The LCR MSCP also has involved consultation as required under the ESA and
6 NHPA. Federal, state, and local agencies were notified of EIS/EIR milestones through public
7 notifications and were provided copies of the document to review (refer to section 7.2.1). They
8 also were contacted to obtain information regarding projects to include in the cumulative
9 impacts analysis (Chapter 4), and contacts were made with local planning officials to obtain
10 information included in the resource-specific analyses contained in Chapter 3. All necessary
11 contacts have and will continue to be made.

12 7.2.3 Tribal Consultation and Coordination

13 Reclamation, as part of its government-to-government consultation requirements (EO 13084),
14 contacted Native American tribes within the planning area. Letters initiating consultation were
15 sent to all potentially affected tribes informing them of the intent to prepare an EIS/EIR for the
16 LCR MSCP in June 1999. A follow-up briefing with the tribes was held in conjunction with the
17 initial scoping meetings for the EIS/EIR. Additional meetings were held with each of the on-
18 river tribes in 2000 during supplemental scoping for the EIS/EIR. A formal consultation
19 meeting with the on-river tribes was conducted in June 2001 to discuss specific tribal concerns.

20 In spring 2001, the LCR MSCP met with the tribes to obtain input on the development of the
21 Conservation Plan and to discuss LCR MSCP issues specific to the tribes. In addition, the LCR
22 MSCP offered to provide the tribes with support in developing tribal conservation areas as part
23 of the LCR MSCP. The tribes expressed interest, and conservation opportunity reports were
24 developed for most of the tribes. In fall 2001, meetings were held with each of the Tribal
25 Councils to determine further interest in pursuing conservation partnerships. Follow-up work
26 has been initiated with each of the tribes.

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